

OIEP under § 30.110. In providing assistance, the Secretary may consult with the Secretary of Education and may use funds supplied by the Secretary of Education in accordance with 20 U.S.C. 7301.

**§ 30.110 What is the process for requesting technical assistance to develop an alternative definition of AYP?**

(a) The tribal governing body or school board requesting technical assistance to develop an alternative definition of AYP must submit a written request to the Director of OIEP, specifying the form of assistance it requires.

(b) The Director of OIEP must acknowledge receipt of the request for technical assistance within 10 days of receiving the request.

(c) No later than 30 days after receiving the original request, the Director of OIEP will identify a point of contact. This contact will immediately begin working with the tribal governing body or school board to jointly develop the specifics of the technical assistance, including identifying the form, substance, and timeline for the assistance.

**§ 30.111 When should the tribal governing body or school board request technical assistance?**

In order to maximize the time the tribal governing body or school board has to develop an alternative definition of AYP and to provide full opportunity for technical assistance, the tribal governing body or school board should request technical assistance before formally notifying the Secretary of its intention to waive the Secretary's definition of AYP.

**APPROVAL OF ALTERNATIVE DEFINITION**

**§ 30.113 How does the Secretary review and approve an alternative definition of AYP?**

(a) The tribal governing body or school board submits a proposed alternative definition of AYP to the Director, OIEP within 60 days of its decision to waive the Secretary's definition.

(b) Within 60 days of receiving a proposed alternative definition of AYP, OIEP will notify the tribal governing body or the school board of:

(1) Whether the proposed alternative definition is complete; and

(2) If the definition is complete, an estimated timetable for the final decision.

(c) If the proposed alternative definition is incomplete, OIEP will provide the tribal governing body or school board with technical assistance to complete the proposed alternative definition of AYP, including identifying what additional items are necessary.

(d) The Secretaries will review the proposed alternative definition of AYP to determine whether it is consistent with the requirements of 20 U.S.C. 6311(b). This review must take into account the unique circumstances and needs of the schools and students.

(e) The Secretaries shall approve the alternative definition of AYP if it is consistent with the requirements of 20 U.S.C. 6311(b), taking into consideration the unique circumstances and needs of the school or schools and the students served.

(f) If the Secretaries approve the alternative definition of AYP:

(1) The Secretary shall promptly notify the tribal governing body or school board; and

(2) The alternate definition of AYP will become effective at the start of the following school year.

(g) The Secretaries will disapprove the alternative definition of AYP if it is not consistent with the requirements of 20 U.S.C. 6311(b). If the alternative definition is disapproved, the tribal governing body or school board will be notified of the following:

(1) That the definition is disapproved; and

(2) The reasons why the proposed alternative definition does not meet the requirements of 20 U.S.C. 6311(b).

(h) If the Secretaries deny a proposed definition under paragraph (g) of this section, they shall provide technical assistance to overcome the basis for the denial.

**Subpart B—Assessing Adequate Yearly Progress**

**§ 30.114 Which students must be assessed?**

All students in grades three through eight and at least once in grades ten